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May 1, 1998

Cynthia L. Johnson  
Director, Cash Management Policy and Planning Division  
Financial Management Service  
U.S. Department of the Treasury  
401 14th Street, SW -- Room 420  
Washington, DC 20227

**RE: Notice of Proposed Rulemaking:  
31 CFR Part 210 -- Federal Government  
Participation in the Automated Clearing House**

Dear Ms. Johnson:

On behalf of EastPay, Inc, we respectfully submit these comments in response to the notice of proposed rulemaking (NPRM) issued by the Treasury Department's Financial Management Service regarding the Federal Government's participation in the ACH network. EastPay is the regional ACH and payments association serving over 375 financial institution members in North Carolina, Virginia, and West Virginia. EastPay was formed in April 1996 when the Virginias' ACH Association (VACHA) and the North Carolina ACH Association (NorCACHA) merged.

We have participated in the drafting and review of the National Automated Clearing House's (NACHA) response to the NPRM. We wholeheartedly concur with their comments on 31 CFR Part 210. We want to specifically point out our concerns with two proposed sections and offer additional information.

***Verification of Identity of Recipient*** [proposed Secs. 210(a), 210.8(c)(2)]. We believe that financial institution's should only be liable for validating the identity of the beneficiary at the time of enrollment. This process is already well established in the commercial world as it pertains to account opening procedures. The financial institution is not able to determine whether the "proposed beneficiary" is entitled to the payments being enrolled for.

A current FMS practice supports our proposal. Since the advent of the Death Notification Entry (DNE), FMS and the Social Security Administration have consistently advised RDFIs to return funds once the RDFI receives a DNE entry. The basis for this consistent advice has been that the RDFI is not in a position to determine whether the recipient is entitled to the payment. The paying agency is the "expert" on eligibility. We believe that this determination should be made by the enrolling agency, not the financial institution.

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This proposal could shift significant liability to the financial institution community. We think that the liability would serve as a disincentive for DFIs to participate in the enrollment process. We believe many would not promote or use the automated enrollment process (ENR). In the case of Social Security, those enrollments might be shifted to the 800 telephone method, or the paper based SF 1199A process.

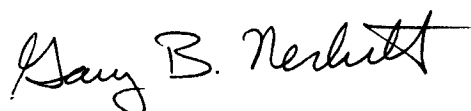
***Prenotifications*** [proposed Secs. 210.6(b) , 210.8(a)].

We would like to point out that prenotifications under the ACH Rules are now optional. From their inception, prenotes have required the RDFI to "validate" only the account number. The Uniform Commercial Code Part 4 A also allows the receiving financial institution to rely on account number alone. This additional requirement to validate data in addition to account number will add significant expenses to the financial industry without an offsetting benefit. Validation of name and or Social Security number would appear to be the logical data to attempt to validate, but these cannot be done in any automated fashion.

Our experience has shown that only the very smallest financial institutions can validate the receiver's name since this must be done manually. Automated systems cannot effectively match the possible variations of name and account number combinations. In the case of representative payees, the beneficiary (name or Social Security number) of the payment may not be listed on the account in any manner. Traditionally, financial institutions only have information on the persons who are authorized to sign on the account. Since there appears to be no effective method to automate this function, RDFIs would be forced into having an employee review ALL Federal government prenotes. The costs of this requirement would far outweigh the benefits derived. It would shift the financial burden to the financial institutions.

Again, thank you for the opportunity to provide our comments on the proposed 31 CFR Part 210. Please feel free to contact me with questions or if clarification is needed.

Sincerely:

A handwritten signature in black ink that reads "Gary B. Nesbitt". The signature is fluid and cursive, with a stylized "G" and "N".

Gary B. Nesbitt, AAP  
Senior Vice President  
EastPay - Charlotte